

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**DAMON JOHNSON,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 1:03CV267  
(BROADWATER)**

**WARDEN BLEDSOE;  
MS. LIVINGSTON, Disciplinary Officer;  
KIM WHITE, Regional Administrative  
Remedy Adjudicator; and  
HARVELL WATTS, General Counsel,**

**Defendants.**

**ORDER ADOPTING REPORT AND RECOMMENDATION AND  
DISMISSING CASE FROM ACTIVE DOCKET**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated April 8, 2005. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (**Docket # 9**) should be and is hereby **ORDERED** adopted.

On February 6, 2004, the Magistrate Judge granted plaintiff's request to proceed without prepayment of fees but also ordered the plaintiff to pay the initial filing fee within 30 days of the entry of the Order. On January 25, 2005, the Magistrate Judge granted the plaintiff an additional extension of time to pay the fee. There being no response by plaintiff, on April 11, 2005 the Magistrate Judge entered a Report and Recommendation that plaintiff's Complaint be dismissed without prejudice. On May 2, 2005, plaintiff filed another motion requesting an additional 90 days in which to pay the filing fee. On May 5, 2005, this Court granted plaintiff until August 8, 2005 to pay the fee. As of August 22, 2005, the plaintiff still has not paid the fee.

Therefore, the Court **ORDERS** that the plaintiff's Complaint be **DISMISSED WITHOUT**

**PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

**DATED** this 25<sup>th</sup> day of August 2005.

  
W. CRAIG BROADWATER  
UNITED STATES DISTRICT JUDGE